

price for which the cigars are sold, in accordance with § 40.22. The record shall be a continuing one of each brand and size of cigar so that the sale price on which the tax is based may be readily ascertained.

[T.D. ATF-307, 55 FR 52743, Dec. 21, 1990. Redesignated and amended by T.D. ATF-420, 64 FR 71941, Dec. 22, 1999; T.D. ATF-420, 65 FR 1676, Jan. 11, 2000]

INVENTORIES AND REPORTS

§ 40.201 Inventories.

Every manufacturer of tobacco products shall make true and accurate inventories on Form 5210.9, which inventories shall include all tobacco products and processed tobacco on hand required to be accounted for in the records kept under this part. The manufacturer shall make such an inventory at the time of commencing business, which shall be the effective date of the permit issued upon original qualification under this part; at the time of transferring ownership; at the time of changing the location of his factory to a different region; at the time of concluding business; and at such other time as any appropriate TTB officer may require. Each inventory shall be prepared in duplicate, and shall be subject to verification by an appropriate TTB officer. The original of each such inventory shall be submitted to the appropriate TTB officer, and the duplicate shall be retained by the manufacturer.

(Approved by the Office of Management and Budget under control number 1512-0358)

(72 Stat. 1422, 1423, as amended; 26 U.S.C. 5721, 5741)

[T.D. 6871, 31 FR 35, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.201 was amended by adding after the words “all tobacco products and” the word “processed”, effective June 22, 2009 through June 22, 2012.

§ 40.202 Reports.

(a) *Monthly report.* Every manufacturer of tobacco products shall make a report on Form 5210.5, in duplicate, for

each month and for any portion of a month during which he engages in such business. Such report shall be made regardless of whether any operations or transactions occurred during the month or portion of a month covered therein. The report for a month or portion of a month in which business is commenced or is concluded shall be conspicuously marked “Commencing Report” or “Concluding Report,” respectively. The original of the report shall be submitted to the appropriate TTB officer not later than the 20th day of the month succeeding the month covered therein, and the duplicate shall be retained by the manufacturer. Each report shall show, for the period covered, the total quantity of tobacco products:

- (1) Manufactured,
- (2) Received in bond,
- (3) Received by return to bond,
- (4) Disclosed by inventory as an overage,
- (5) Removed subject to tax,
- (6) Removed in bond,
- (7) Otherwise disposed of without determination of tax,
- (8) Disclosed by inventory as a shortage, and
- (9) On hand, in bond, beginning of and end of month.

(b) *Report of processed tobacco removed.* In addition to the recordkeeping and reporting requirements set forth elsewhere in this part, a manufacturer of tobacco products who removes processed tobacco from the factory premises for any purpose other than destruction must record and report those removals in accordance with § 40.522 of this part.

(Approved by the Office of Management and Budget under Control No. 1513-0033)

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5722))

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-40, 42 FR 5001, Jan. 26, 1977; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-307, 55 FR 52743, Dec. 21, 1990; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.202 was amended by revising paragraph (b) and the Office of

§ 40.211

Management and Budget control number reference, effective June 22, 2009 through June 22, 2012.

PACKAGES

§ 40.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon as required by this part. No package of tobacco products shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid. No person may purchase, receive, possess (except for personal consumption), offer for sale, or sell or otherwise dispose of, after removal, any tobacco products that are not put up in packages bearing the marks, labels, and notices, as required under this part.

(26 U.S.C. 5723 and 5751)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28081, Aug. 5, 1986 T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.211 was amended by adding a sentence at the end of the section and by revising the statutory citations, effective June 22, 2009 through June 22, 2012.

§ 40.212 Mark.

Every package of tobacco products packaged in a domestic factory shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product subject to tax and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any trade name of the manufacturer approved as provided in

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§ 40.65 may be used in the mark as the name of the manufacturer.) As an alternative, where tobacco products are packaged and removed subject to tax by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the package by a means approved by the appropriate TTB officer. Before using the alternative, the manufacturer shall notify the appropriate TTB officer in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the appropriate TTB officer shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986]

§ 40.213 Tobacco products labeled for export.

Tobacco products labeled for export are ineligible for removal from the factory and distribution into the domestic U.S. market. Such products may only be sold, transferred or delivered onto the domestic U.S. market by a manufacturer of tobacco products after repackaging of the product. For the purposes of this section, “repackaging” shall mean the removal of the tobacco product from its original package bearing the export marks and placement of the product in a new package. The new packages, marks and notices must conform to the requirements of this subpart.

[T.D. ATF-421, 64 FR 71924, Dec. 22, 1999]

§ 40.214 Notice for cigars.

Before removal subject to tax, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

- (a) The designation “cigars”;
- (b) The quantity of cigars contained in the package; and